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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,529

09/16/2005

Satoshi Saito

MOR-258-A

9480

48980 7590 03/11/2009

YOUNG & BASILE, P.C.  
3001 WEST BIG BEAVER ROAD  
SUITE 624  
TROY, MI 48084

EXAMINER

TRUONG, KEVIN THAO

ART UNIT

PAPER NUMBER

3734

NOTIFICATION DATE

DELIVERY MODE

03/11/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@youngbasile.com  
audit@youngbasile.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,529	<b>Applicant(s)</b> SAITO ET AL.	
	<b>Examiner</b> Kevin T. Truong	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-7, 12, and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/09/2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3, 5-7, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite because the claim appears missing the transitional term "comprising" (and other comparable terms, e.g., "containing," and "including") or "consisting of". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilson et al. (U.S. Patent No. 6,336,934) in view of Greenhalgh (U.S. Patent No. 6,375,670).

Gilson et al. disclose the invention substantially as claimed including a principal wire (ref. 33, Fig. 11), a capture filter with a filter body (ref. 30 and 31, Fig. 11), support wires (ref. 30, Fig. 11, and Fig. 39) that extend radially outward towards the outer diameter, meshed material (ref. 31, Fig. 11), the filter body divided into sets that are twined together to form the support wires (Fig. 39), the mesh size of the material decreasing toward the central part of the concave (Fig. 11; as is shown in the Figure, the mesh size decreases towards the central part of the concave), wherein the support wires and filter body are integrated (as illustrate in figure 39); the filaments consisting of a shape-memory alloy (col. 11, line 39), a guide wire joined to the convex side of the filter body, and the nearer ends of the support wires being fixed to a second tubular piece (ref. 32, Fig. 11). Gilson et al. use one wire that goes through the filter. It attached to both ends of the filter. The proximal end can be considered the principal wire while the distal end can be considered the guide wire. Gilson et al. disclose the invention substantially as claimed except for the central part of the filter body being joined to the nearer end side of a first tubular piece and a concave filter. Greenhalgh teaches a concave (see distal end of ref. 10, Fig. 1, and how it is concave) filter body being joined to the nearer end side of a first tubular piece for the purpose of attachment (ref. 38, Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the

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invention to have modified Gilson et al. with a filter body being joined to the nearer end side of a first tubular piece for the purpose of attaching the guide wire to the mesh filter body.

3. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilson et al. (U.S. Patent No. 6,336,934) in view of Rafiee et al. (U.S. Patent No. 6,716,231).

Gilson et al. discloses the claimed invention as state above except for the end of the plurality of set of filaments fixed to the principal wire and do not move relatively to the principal wire. However, Rafiee et al teaches in figure 4, that it is known in the surgical art to have the end (66,68) of the plurality of set of filaments fixed to the principal wire (65) and do not move relatively to the principal wire (65).

For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the filaments ends of Gilson et al preferably fixed to the principal wire as taught by Rafiee et al, so that it is capable of rotational movement independent of the principal wire.

### ***Response to Arguments***

4. Applicant's arguments filed 12/09/2008 have been fully considered but they are not persuasive. Applicant argues that neither Gilson et al. nor Greenhaulgh show the support wire and filter body are integrated. Examiner disagrees with applicant's remarks, Gilson et al disclose in figure 39 that the support wires and filter body appear to be integrated. Furthermore, it has been held that the term "integral" is sufficiently

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broad to embrace constructions united by such means as fastening and welding. In re Hotte, 177 USPQ 326, 328 (CCPA 1973).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/  
Primary Examiner, Art Unit 3734

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